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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,331	04/14/2004	Olivier J. A. Schueller	H0498.70168US01	5408
7590	01/05/2009		EXAMINER	
Timothy J. Oyer, Ph.D. Wolf, Greenfield & Sacks, P.C. 600 Atlantic Avenue Boston, MA 02210			SIMONE, CATHERINE A	
			ART UNIT	PAPER NUMBER
			1794	
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			01/05/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/824,331	SCHUELLER ET AL.	
	Examiner	Art Unit	
	Catherine Simone	1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 29 September 2008.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 52,54-56,62 and 63 is/are pending in the application.
- 4a) Of the above claim(s) 62 and 63 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 52 and 54-56 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION***Repeated Rejections***

1. The 35 U.S.C. 112, first paragraph, rejection of claims 52 and 54-56 is repeated for the reasons previously set forth in the last Office Action mailed 4/29/2008, Paragraph #3.
2. The 35 U.S.C. 102(b) rejection of claims 52 and 54-56 as anticipated by Ohman is repeated for the reasons previously set forth in the last Office Action mailed 4/29/2008, Paragraph #5.

Response to Arguments

3. Applicant's arguments filed 9/29/2008 have been fully considered but they are not persuasive.

Rejection of Claims 52 and 54-56 under 35 U.S.C. 112, first paragraph

Applicants argue “Support for the recitation of “portions of the surface defining the indentations being of material essentially identical to that of portions of the surface defining the protrusions” may be found, for example, in Figures 2, 3, 11, and 12....Component 12, as illustrated in Figure 2, comprises a surface defining the indentations that are made of material essentially identical to that of portions of the surface defining the protrusions, as indicated by the consistent hatch marks within component 12. Similarly, component 12 in Figures 11 and 12 comprise consistent shading throughout. Thus, it is the position of the examiner that the above-noted recitation is described in the instant specification in such a way as to reasonably convey

to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention".

Additionally, according to the MPEP 608.02, the hatchmarks indicate that the same type of material may be used (i.e. plastic, metal), but does not clearly indicate that the material is essentially identical between two different elements with similar hatchmarks.

Rejection of Claims 52 and 54-56 under 35 U.S.C. 102(b)

Applicants argue "While Ohman may teach a first component having a surface defining a plurality of protrusions, the Patent Office has not shown where, in Ohman, the protrusions are described to be bonded to a surface of a second component. By contrast, the embodiment shown in Fig. 5 of Ohman describes two separate components, i.e., component 1 and component 8 are not bonded to each other. Additionally, the embodiment described in Fig. 6 of Ohman includes a first component 'applied to' a second component".

However, looking at Figures 6 and 7 in Ohman, it is to be pointed out that sealing strips 5 are placed in grooves 6 of polymeric component 1 and the second component 8 is then being pressed against component 1 to compress the sealing strips 5 bringing component 8 in mutual contact with component 1 (col. 6, lines 30-38). Figure 6 shows component 8 having grooves 9 to accommodate the sealing strips 5 when component 1 and component 8 are pressed together (also see claim 6). Thus, the sealing strips 5 of component 1 are being fitted with the grooves 9 of component 8 when the two components are pressed together, so components 1 and 8 are being held together by

sealing strips 5, thereby forming a bond. Therefore, the sealing strips 5 are bonding component 1 to component 8. Accordingly, the protrusions of component 1 are being bonded to the surface of the second component 8. As a result, Ohman clearly teaches the protrusions being bonded to a surface of the second component, as required by independent claim 52.

Applicants then argue “Ohman does not describe a liquid-impermeable seal therebetween”.

However, it is to be pointed out that the sealing strips 5 provide leakage proof sealing means (col. 2, lines 20-25) between components 1 and 8. Thus, Ohman clearly teaches a liquid-impermeable seal therebetween, as required by independent claim 52.

Applicants further argue “in the embodiment shown in Fig. 9 of Ohman, the portions of the surface defining the ‘protrusions’ are different than those indicated by arrows drawn on Fig. 5 in the Office Action. Rather, the ‘protrusions’ shown in Fig. 9 of Ohman comprise two different materials (e.g., component 1 and sealing strips 5) than that of the intervening indentations”.

This is not deemed persuasive. As shown in the previous 102 rejection, Ohman clearly teaches a plurality of protrusions. The previous Office Action illustrated the protrusions shown in Fig. 5. Those same protrusions are also shown in Fig. 9 of Ohman. However, sealing strips 5 are also being shown in Fig. 9. The sealing strips 5 are being placed between the protrusions of polymeric component 1 and therefore are separate from the protrusions. Accordingly, the protrusions are being made up of a single material, which is the same material as that of the intervening indentations. The polymeric component 1, which includes the protrusions and intervening indentations, is being made

up of a single material (col. 4, lines 13-18), so the portions of the surface defining the indentations are deemed to be of a material essentially identical to that of the portions of the surface defining the protrusions. Thus, Ohman clearly teaches the portions of the surface defining the indentations being of material essentially identical to that of the portions of the surface defining the protrusions, as required by independent claim 52.

In view of the foregoing, each limitation is being taught in Ohman, therefore claim 52 is unpatentable over Ohman. Claims 54-56, which depend from claim 52, are also unpatentable over Ohman.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine Simone whose telephone number is (571) 272-1501. The examiner can normally be reached on Monday-Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jennifer McNeil can be reached on (571) 272-1540. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Catherine Simone/
Examiner, Art Unit 1794

/JENNIFER MCNEIL/

Supervisory Patent Examiner, Art Unit 1794